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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/621,939

07/17/2003

John M. Clark

1643.102

1561

7590

12/19/2005

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EXAMINER

MOHANDESI, JILA M

ART UNIT

PAPER NUMBER

3728

DATE MAILED: 12/19/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)	
	10/621,939	CLARK, JOHN M.	
	Examiner	Art Unit	
	Jila M. Mohandesi	3728	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 17 July 2005.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-17 is/are rejected.
- 7) ☒ Claim(s) 18-20 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)             | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

## **DETAILED ACTION**

### ***Election/Restrictions***

1. After careful consideration of the restriction and in view of Applicant's arguments the requirement for restriction is withdrawn.

### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1, 7-9, and 12-15 are rejected under 35 U.S.C. 102(b) as being anticipated by Gutierrez et al. (2002/0074259). Gutierrez discloses a protective housing assembly for releasably storing a product (22 & 24), said protective housing assembly comprising: a housing base member (4), a housing cover member (2) positionable upon said housing base member, such that, when positioned thereat, said housing cover member and said housing base member together define an enclosure that encloses the product; and an evacuator (pump 66) at least engageable in fluid connectivity with the enclosure defined by said housing base member together with said housing cover member when positioned thereon, said evacuator for evacuating air out of the enclosure

to a selected level of vacuum, thereby to maintain the product in the isolation from the ambient environmental conditions.

Although the reference of Gutierrez is concerned with food and not with optical media disc, Applicant is not claiming optical media discs as structure in Applicant's independent claims, but as intended use. Inasmuch as it is possible to make optical media discs with different length and the diameter/perimeter dimensions that are equal to food, the cavities of the housing of Gutierrez are inherently capable of storing and supportively engaging optical media discs, and this capability meets the intended use claimed by Applicant regarding optical media discs .

With respect to claim 7 and 8, note the hinge and the perimetral flange members in Figure 2 embodiment.

With respect to claims 14 and 15, note the pump and hose (46 and 44) in Figure 2 embodiment.

4. Claims 1-2 and 16-17 are rejected under 35 U.S.C. 102(b) as being anticipated by Clemens (6,678,239). Clemens discloses a protective housing assembly for releasably storing a optical media disc, said protective housing assembly comprising: a housing base member (12), a housing cover member (14) positionable upon said housing base member, such that, when positioned thereat, said housing cover member and said housing base member together define an enclosure that encloses the optical media disc; and an evacuator (see column 5, lines 19-50) at least engageable in fluid connectivity with the enclosure defined by said housing base member together with said housing cover member when positioned thereon, said evacuator for evacuating air out

of the enclosure to a selected level of vacuum, thereby to maintain the product in the isolation from the ambient environmental conditions.

Claims 16 and 17 are directed to the obvious method of using the Clemens assembly.

5. Claims 1 and 8-15 are rejected under 35 U.S.C. 102(e) as being anticipated by Martell (5,791,075). Martell discloses a protective housing assembly for releasably storing a product (75), said protective housing assembly comprising: a housing base member (3), a housing cover member (5) positionable upon said housing base member, such that, when positioned thereat, said housing cover member and said housing base member together define an enclosure that encloses the product; and an evacuator (bulb 51) at least engageable in fluid connectivity with the enclosure defined by said housing base member together with said housing cover member when positioned thereon, said evacuator for evacuating air out of the enclosure to a selected level of vacuum, thereby to maintain the product in the isolation from the ambient environmental conditions.

Although the reference of Martell is concerned with collectables such as coins and medals and not with optical media disc, Applicant is not claiming optical media discs as structure in Applicant's independent claims, but as intended use. Inasmuch as it is possible to make optical media discs with different length and the diameter/perimeter dimensions that are equal to coins and medals, the cavities of the housing of Martell are inherently capable of storing and supportively engaging optical media discs, and this capability meets the intended use claimed by Applicant regarding optical media discs .

With respect to claims 8-11, note the perimetral flange members (37 and 39) and gasket (25) in Figures 1 and 2 embodiments.

With respect to claims 14 and 15, note the pump and hose (column 3, lines 49-53).

***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 3-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Clemens

Official Notice is taken that it is old and conventional to provide spindles in protective housing assemblies for storing optical media disk to better secure the disk within the housing. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide spindles to the housing of Clemens in view of the Official Notice to better secure the disk within the housing.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide a second spindle for permitting sitting of a second optical disc in the assembly of Clemens, since it has been held that mere duplication and rearranging of the essential working parts of a device involves only routine skill in the art. *St. Regis Paper Co. V. Bemis Co.*, 193 USPQ 8 and *In re Einstein*, 8 USPQ 167.

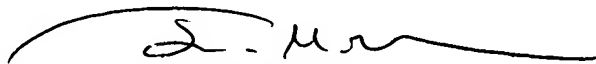
***Allowable Subject Matter***

8. Claims 18-20 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jila M. Mohandesi whose telephone number is (571) 272-4558. The examiner can normally be reached on Monday-Friday 7:30-4:00 (EST).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mickey Yu can be reached on (571) 272-4562. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Jila M Mohandesi  
Primary Examiner  
Art Unit 3728

JMM  
December 08, 2005